

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA**

UNITED STATES OF AMERICA,)	
)	
<i>Plaintiff,</i>)	Civil Action No. 5:22-cv-05055-JFM
)	
v.)	
)	
INHANCE TECHNOLOGIES, LLC,)	
)	
<i>Defendant.</i>)	
)	
)	
)	

**MOTION OF PLAINTIFF-INTERVENORS FOR LEAVE TO FILE A
SUPPLEMENTAL RESPONSE TO THE COURT’S DECEMBER 4,
2023 ORDER CALLING FOR BRIEFING ON MOOTNESS ISSUES**

Plaintiff-Intervenors hereby move to file the attached supplemental brief in response to the Court’s December 4, 2023 Order directing the parties to address issues of mootness in response to the December 1, 2023 orders issued by the Environmental Protection Agency (EPA) to defendant Inhance Technologies under sections 5(e) and 5(f) of the Toxic Substances Control Act (TSCA).

Plaintiff-Intervenors filed a brief on December 11, 2023 taking the position that the upcoming February 28 effective date of the EPA orders would render this case moot because the orders rather than the applicable TSCA significant new use rule (SNUR) govern Inhance’s obligations under the law. At the time of its filing, however, Plaintiff-Intervenors did not know that Inhance had moved for a stay of the orders in the Fifth Circuit Court of Appeals and that the United States had agreed not to oppose the stay. Yesterday, the Court issued the stay for the duration of Inhance’s petition for review of the EPA orders. The consequence is that, contrary to

our earlier understanding, the EPA orders will NOT take effect for an extended period and therefore the SNUR requirements of TSCA would continue to apply.

These developments resulted in a conclusion by Plaintiff-Intervenors that the issues in this case are not moot. The attached brief explains the basis for this change in position and addresses the steps the Court should take moving forward to resolve the pending motions in this case. We believe it is important and valuable for the Court to understand Plaintiff-Intervenors' current thinking on the issues the Court must consider at tomorrow's case management conference.

Plaintiff-Intervenors asked the United States and Inhance to consent to this motion and both responded that they opposed the motion.

WHEREFORE, the Court should grant this motion and accept the attached Supplemental Response for filing in this case.

Dated: December 13, 2023

Respectfully submitted,

/s/ Michael D. Fiorentino

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CERTIFICATE OF
SERVICE

Pursuant to Local Civil Rule 7.1(d), I certify that on December 13, 2023, I electronically filed the foregoing Motion for Leave to File a Supplemental Response to the Court's December 4, 2023 Order Calling For Briefing On Mootness Issues using the CM/ECF system. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties of record.

/s /Michael D. Fiorentino

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